UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,123	09/17/2003	Shantanu Sardesai	MS1-1613US	7155

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/667,123	SARDESAI ET AL.
	Examiner	Art Unit	
	TED T. VO	2191	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>31 October 2008</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1,4-7,11-16,19-21,25-29,42-46,50,52-55,59 and 61-63</u> is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1,4-7,11-16,19-21,25-29,42-46,50,52-55,59 and 61-63</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All   b)☐ Some * c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

1.   This action is in response to the communication filed on 10/31/2008.

        Claims 1, 4-7, 11-16, 19-21, 25-29, 42-46, 50, 52-55, 59 and 61-63 are pending in the

application.

Response to Arguments

2.   Applicants' arguments and amendment in the remarks on 10/31/2008 have been

considered. It appears the argument remark contending the lack of prima facie case of

obviousness on the combination of the prior arts. However, the argument is improper. Claims

recited all the common things that do not require an articulation for combining, but it is obvious

from the given prior arts themselves. Every claimed feature reads on the functionality addressed

in the prior arts, and thus it is reasonable for combining. It should be noted that claims recite

common things that is known to publics. An example that is the action statement submitted in the

Applicant' IDS (under an Application number 200410030441.2). Mixing of the elements in the

claims is only with attempting for causing the burden, while the claimed methods remain among

the things in which everyone does commonly or has to do to install new software.   The

amendment necessitates the new ground of rejection presenting in this Office Action. Therefore,

Applicants' arguments are boot in view of new ground of rejection.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) A patent may not be obtained though the invention is not identically disclosed or
> described as set forth in section 102 of this title, if the differences between the subject
> matter sought to be patented and the prior art are such that the subject matter as a whole
> would have been obvious at the time the invention was made to a person having ordinary
> skill in the art to which said subject matter pertains. Patentability shall not be negatived
> by the manner in which the invention was made.

4.   Claims 1, 4-7, 11-16, 19-21, 59, 61-63 are rejected under 35 U.S.C. 103(a) as being

unpatentable over TechNet, "Remote Operating System Installation", 1999 (print version – 28

pages), in view of Computing.net, "Installing a New Operating System", 2002,

http://www.computing.net/answers/windows-me/installing-a-new-operating-system/17954.html.

As per claims 1: TechNet discloses a method comprising

capturing data or state for migration to a new operating system and storing the data or state at

a remote network location;

See p. 1, a Remote Installation Services Setup Wizard prepares data or state will be captured at a

remote network when user clicks "Done". See p. 13, a client receives images, configuration

setting data.

installing a pre-installation environment on a target computer that is desired to be imaged

with the new operating system, the pre-installation environment comprising a subset of an

operating system, wherein the act of installing the pre-installation environment comprises

installing the pre-installation environment in a same disk partition as an old operating system;

i.e. the Wizard, or see p. 3, i.e. PXE based remote boot-enabled and /or a pre-configured Remote Installation

Preparation (RIPrep) desktop image.

re-booting the target computer wherein rebooting the target computer activates the pre-

installation environment on the target computer;

See p.5, #1, and see p. 11, the running of PXE causing pre-boot. See p. 14, using Windows 2000

Remote Boot Disk Generator.

deleting an old operating system from within the pre-installation environment (See p.5, #5)

installing the new operating system from within the pre-installation environment, wherein the

new operating system is deployed in the same disk partition as the old operating system,

whereby non-operating system data on the disk is preserved; [Computing.net: p.2: #2,3,3,4, and

patricianly #5]; *and*

re-booting the target computer in the new operating system (p. 3-4); *and migrating the data or*

state stored in the network location to the new operating system (See TechNet: the installation

of OS into the client computer: p. 20, i.e. computer restarts after remotely installing the OS, Windows

Installer realizes that the software is already on the machine [On the other hand, Computing.net

teaches the limitation as using #8]).

When perform rebooting, TechNet does not mention "old operating system".

However, Computing.net teaches a formal way of New Operating System is installed

over an old operating system in the same partition [Window ME (old) Windows 98 (new)]. Old

operating system is deleted by #5 as being done from formatting C.   Computing.net, an

analogous art, shows before installing a new operating system over an existing operating system,

a reboot computer is required with a bootdisk, but it causes loosing existing operating system

because of formatting. Computer.net shows non-related data should be saved in a backup before

installation and restore after the installation's completion (See Name jFrOg, posted date January

4, 2002),

Therefore, it is obvious to an ordinary in the art to combine Computing.net for the

suggestion of "New Operating System" for conforming to a standard way when people want

installing any software.

As per claim 4: ***The method of claim 1 wherein the data or state includes machine data*** (See

TechNet, p. 1, a Remote Installation Services Setup Wizard shows data or state will be captured

at a remote network when user click "Done". See p. 13, a client receives images, configuration

setting data).

As per claim 5: ***The method of claim 1 wherein the data or state includes user data*** (See

TechNet, p. 1, a Remote Installation Services Setup Wizard shows data or state will be captured

at a remote network when user click "Done". See p. 13, a client receives images, configuration

setting data).

As per claim 6: ***The method of claim 1 wherein the data or state includes user state*** (See

TechNet, p. 1, a Remote Installation Services Setup Wizard shows data or state will be captured

at a remote network when user click "Done". See p. 13, a client receives images, configuration setting data).

As per claim 7: *The method of claim 1 wherein the data or state includes client data* (See TechNet, p. 1, a Remote Installation Services Setup Wizard shows data or state will be captured at a remote network when user click "Done". See p. 13, a client receives images, configuration setting data).

As per Claim 11: *A method for remotely imaging multiple target computers with a new operating system comprising:*

imaging multiple target computers with a new operating system using a mufti-phase image deployment process, said multi-phase deployment process comprising at least:

a preparation phase in which various data is captured for migration to the new operating system and stored at a remote network location, wherein the preparation phase comprises installing a pre-installation environment from which in place installation can take place, the pre-installation environment comprising a subset of an operating system, wherein the act of installing the pre-installation environment comprises installing the pre-installation environment in the same disk partition as the old operating system;

a wipe and load phase in which an old operating system is deleted and the new operating system is installed in place (Refer to Computing.net #5)*, wherein the new operating system is deployed in the same disk partition as the old operating system, whereby non-operating system data on the disk is preserved; and*

a restoration phase in which captured data is migrated to the new operating system

See rationale address in the claim 1.

As per claim12: TechNet further discloses, *wherein the preparation phase can capture data associated with one or more of machine state, client state, user state and/or user data* (See p. 1, a Remote Installation Services Setup Wizard prepares data or state will be captured at a remote network when user click "Done". See p. 13, a client receives images, configuration setting data).

As per claim13: TechNet further discloses *wherein machine state data can comprise one or more of computer name, domain, and network settings* (See configuration setup, e.g. p. 7).

As per claim14: TechNet further discloses *wherein client state data can comprise Site association or code, client GUID, and an associated distribution point* (See p.21).

As per claim15: TechNet further discloses *wherein user state data can comprise a user profile* (See p.13).

As per claim16: TechNet further discloses *wherein user data can comprise folders and files desired for migration and network share settings* (See p.1, data in the Wizard).

As per claim 19: With regard to this limitation: *wherein the wipe and load phase comprises enabling a target computer to connect with at least one of a number of destination points from which an image file containing the new operating system image is obtained.*,

TechNet does not shows clearly wipe and load phase. The combination is done with Computing.Net, which is Window ME (old) for Windows 98 (new) install in a directory of C.

As per claim 20: TechNet further discloses *wherein the multi-phase image deployment process* (i.e. Operating System is deployed to clients in the Network) *is configured to generate status reports during each of the phases, said status reports being transmittable to a system*

administrator to facilitate management of the image deployment process (See p. 6: See Remote

Installation Services Setup; also refer to administrator is prompted).

As per claim 21: TechNet further discloses *wherein the multi-phase image deployment process*

is configured to generate status reports during each of the phases, said status reports being

transmittable to a system administrator to facilitate management of the image deployment

process, wherein status reports are generated by an old client associated with the old operating

system, and a new client associated with the new operating system (See p. 6: See Remote

Installation Services Setup; also refer to administrator is prompted).

As per claims 59, 61-63: See rationale addressed in the rejection of claims 11 and 19-21

respectively.

5.   Claims 25-29, 42-46, 50, 52-55 are rejected under 35 U.S.C. 103(a) as being unpatentable

over TechNet, "Remote Operating System Installation", 1999, in view of Computing.net,

"Installing a New Operating System", 2002, and further in view of Pawlak, "Software Update

Service to Ease Patch Distribution", DirectiononMicrosoft.com.

As per claim 25: Regarding limitation,

A method for in-place imaging of a target computer with a new operating system comprising:

capturing data or state for migration to the new operating system and storing the data or state

at a remote network location;

installing a pre-installation environment on the target computer that is desired to be imaged

with a new operating system, the pre-installation environment comprising a subset of an

operating system, wherein the act of installing the pre-installation environment comprises

installing the pre-installation environment in a same disk partition as an old operating system;

re-booting the target computer, wherein rebooting the target computer activates the pre-

installation environment on the target computer;

deleting an old operating system from within the pre-installation environment;

installing the new operating system from within the pre-installation environment, wherein the

new operating system is deployed in the same disk partition as the old operating system,

whereby non-operating system data on the disk is preserved;

re-booting the target computer in the new operating system;

See the rationale address in Claim 1 above.

Neither TechNet nor Computing.net discloses *notifying a target computer user that a new*
operating system image is desired to be deployed on the target computer and providing the user
with an option to postpone image deployment on the target computer.

Pawlak, in an analogous art, using a server side process to implement a scheduler on a
target computer for ***notifying a target computer user that a new operating system image is***
desired to be deployed on the target computer (e.g. see p.3-4, "Automatic Update Client": it
teaches SUS client is notified to get applicable packages); ***and providing the user with an option***
to postpone image deployment on the target computer (See p. 3, last paragraph. See A1-3, the
options, and descriptions within check boxes. Also see A1-A2).

Therefore, it would be obvious to an ordinary in the art to include an option as in the
manner of Pawlak into the setup installer of TechNet or Computing.net to allow a client or a user

of a target computer having an option; thus, it would be good for the user with a decision or choices.

As per claim 26: Incorporated with the rejection of claim 25, Pawlak further discloses, *The method of claim 25 further comprising providing the user with an option to disallow image deployment on the target computer* (See A1-A2, for example unchecked).

As per claim 27: Incorporated with the rejection of claim 25, Pawlak further discloses, *The method of claim 25 further comprising providing the user with an option to immediately begin an image deployment process on the target computer* (See A1-A2, for example approve, or the act of downloading by a user in A1).

As per claim 28: Incorporated with the rejection of claim 25, Pawlak further discloses, *The method of claim 25 further comprising providing the user with an option to disallow image deployment process on the target computer, and an option to immediately begin an image deployment process on the target computer* (See A1-A3).

As per claim 29: Incorporated with the rejection of claim 25, Pawlak further discloses, *The method of claim 25, wherein the act of providing comprises allowing the user to specify a postponement duration* (See A2-A3, 'set options').

As per Claims 42-46: The rejection of the claims has the same reasons as addressed in the rationale in the rejection of claims 25-29.

As per Claims 50, 52-55: The rejection of the claims has the same reasons as addressed in the rationale in the rejection of claims 25-29.

Conclusion

6.   Applicant's amendment necessitated the new ground(s) of rejection presented in this

Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

        A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

        Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Ted T. Vo whose telephone number is (571) 272-3706. The

examiner can normally be reached on 8:00AM to 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wei

Y. Zhen can be reached on (571) 272-3708.

        The facsimile number for the organization where this application or proceeding is

assigned is the Central Facsimile number 571-273-8300.

Any inquiry of a general nature or relating to the status of this application should be

directed to the TC 2100 Group receptionist: 571-272-2100. Information regarding the status of

an application may be obtained from the Patent Application Information Retrieval (PAIR)

system. Status information for published applications may be obtained from either Private PAIR

or Public PAIR. Status information for unpublished applications is available through Private

PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov.

Should you have questions on access to the Private PAIR system, contact the Electronic Business

Center (EBC) at 866-217-9197 (toll-free).

TTV
January 09, 2009

/Ted T. Vo/
Primary Examiner, Art Unit 21